

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>SCOTT D. MICHALESKO,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:13-2634</b>
<b>v.</b>	:	<b>(MANNION, D.J.)</b>
<b>FREELAND BOROUGH, <i>et al.</i>,</b>	:	
<b>Defendants</b>	:	

**ORDER**

For the reasons articulated in the court's memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1) The defendants' motion to dismiss, (Doc. 14), is **GRANTED IN PART** and **DENIED IN PART**;
- (2) The plaintiff's claims arising under 42 U.S.C. §1983 for due process and first amendment violations (Counts I & II) will proceed against Freeland Borough;
- (3) The plaintiff's claim of first amendment retaliation (Count II) against the individually named defendants, Robert Quinn, John Budda, John Potoskie, Rick Wenner, Barbara Tulanowski, Joseph Palko, Jr., and Daniel Bobby, will proceed;
- (4) The plaintiff's due process claim (Count I) against those same individually named defendants is **DISMISSED WITH PREJUDICE** as they are entitled to qualified immunity;
- (5) The plaintiff's claims arising under the Americans with Disabilities

Act and the Pennsylvania Human Relations Act (Counts III & IV)  
are **DISMISSED WITH PREJUDICE** as to all the defendants.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: April 29, 2014**

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